

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contract 204 (MC2016-114)
Negotiated Service Agreements

Docket No. CP2016-145

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued July 7, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

In Order No. 3230, the Commission approved the Priority Mail Contract 204 negotiated service agreement (Existing Agreement).² On May 18, 2017, the Postal

¹ Notice of United States Postal Service of Amendment to Priority Mail Contract 204, with Portions Filed Under Seal, June 27, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

² See Docket Nos. MC2016-114 and CP2016-145, Order Adding Priority Mail Contract 204 to the Competitive Product List, April 11, 2016 (Order No. 3230).

Service filed notice that it had agreed to an amendment to the Existing Agreement.³ On May 26, 2017, the Commission issued Chairman's Information Request No.1.⁴ On June 6, 2017, the Postal Service responded to CHIR No. 1 and also withdrew the May 18 amendment, stating that it intended to file a new amendment to replace it.⁵

On June 27, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On June 28, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.⁶

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁷ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

³ Notice of United States Postal Service of Amendment to Priority Mail Contract 204, with Portions Filed Under Seal, May 18, 2017.

⁴ Chairman's Information Request No. 1 and Notice of Filing Under Seal, May 26, 2017 (CHIR No. 1).

⁵ See Responses of United States Postal Service to Chairman's Information Request No. 1, Filed Under Seal, June 6, 2017; Notice of United States Postal Service of Withdrawal of Amendment to Priority Mail Contract 204, June 6, 2017.

⁶ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 28, 2017.

⁷ Public Representative Comments on the United States Postal Service Notice of Amendment to Priority Mail Contract 204, July 3, 2017 (PR Comments).

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment changes the sections of the Existing Agreement that address the package types included in the contract, the use of permit numbers and/or PC Postage accounts, the customer's volume commitment, and the contract pricing. See Notice, Attachment A at 1-2. Additionally, the Amendment adds a new section addressing Quarterly Business Reviews. *Id.* at 2.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.G of the amended agreement should allow the amended agreement's revenues to cover

costs for the duration of its term.⁸ The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination (ACD) to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁹

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 204 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Ruth Ann Abrams
Acting Secretary

⁸ See Docket Nos. MC2016-144 and CP2016-145, Request of the United States Postal Service to Add Priority Mail Contract 204 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governor's Decision, Contract, and Supporting Data, March 31, 2016, Attachment B at 2 (Request).

⁹ Request, Attachment B at 3. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.